

REFERENCE TITLE: **housing affordability; impact statement**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1513

Introduced by
Senator Leff

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-461.14; AMENDING SECTION 9-462.01, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL RESIDENTIAL HOUSING REQUIREMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 9, chapter 4, article 6, Arizona Revised Statutes, is
3 amended by adding section 9-461.14, to read:

4 9-461.14. Residential housing: fiscal impact statement

5 A. BEFORE APPROVAL OF A DEVELOPMENT IMPACT FEE, LAND USE REGULATION OR
6 ORDINANCE OR AMENDMENT TO THE RESIDENTIAL BUILDING CODE, A CITY OR TOWN SHALL
7 PREPARE A HOUSING AFFORDABILITY FISCAL IMPACT STATEMENT. THE FISCAL IMPACT
8 STATEMENT SHALL INCLUDE THE FOLLOWING:

- 9 1. A SUMMARY OF THE FISCAL IMPACT ON HOUSING AFFORDABILITY.
10 2. THE ESTIMATED COST ADDED TO EACH RESIDENTIAL UNIT.
11 3. THE ADDITIONAL FINANCING COST ADDED TO EACH RESIDENTIAL UNIT BASED
12 ON A FIXED RATE THIRTY YEAR AMORTIZED MORTGAGE.

13 B. THE HOUSING AFFORDABILITY FISCAL IMPACT STATEMENT SHALL BE
14 PUBLISHED AND MADE AVAILABLE TO THE PUBLIC ON REQUEST THIRTY DAYS BEFORE A
15 VOTE BY A GOVERNING BODY OF A CITY OR TOWN.

16 C. A CITY OR TOWN THAT FAILS TO PREPARE A FISCAL IMPACT STATEMENT
17 PURSUANT TO THIS SECTION SHALL NOT ADOPT THE PROPOSED DEVELOPMENT IMPACT FEE,
18 LAND USE REGULATION OR ORDINANCE OR AMENDMENT TO THE RESIDENTIAL BUILDING
19 CODE UNTIL THE FISCAL IMPACT STATEMENT IS PROVIDED.

20 Sec. 2. Section 9-462.01, Arizona Revised Statutes, is amended to
21 read:

22 9-462.01. Zoning regulations; public hearing; definitions

23 A. Pursuant to ~~the provisions of~~ this article, the legislative body of
24 any municipality by ordinance may in order to conserve and promote the public
25 health, safety and general welfare:

26 1. Regulate the use of buildings, structures and land as between
27 agriculture, residence, industry, business and other purposes.

28 2. Regulate signs and billboards.

29 3. Regulate THE location, height, bulk, number of stories and size of
30 buildings and structures, the size and use of lots, yards, courts and other
31 open spaces, the percentage of a lot which may be occupied by a building or
32 structure, access to incident solar energy and the intensity of land use.

33 4. Establish requirements for off-street parking and loading.

34 5. Establish and maintain building setback lines.

35 6. Create civic districts around civic centers, public parks, public
36 buildings or public grounds and establish regulations therefor.

37 7. Require as a condition of rezoning public dedication of
38 rights-of-way as streets, alleys, public ways, drainage and public utilities
39 as are reasonably required by or related to the effect of the rezoning.

40 8. Establish floodplain zoning districts and regulations to protect
41 life and property from the hazards of periodic inundation. Regulations may
42 include variable lot sizes, special grading or drainage requirements, or
43 other requirements deemed necessary for the public health, safety or general
44 welfare.

1 9. Establish special zoning districts or regulations for certain lands
2 characterized by adverse topography, adverse soils, subsidence of the earth,
3 high water table, lack of water or other natural or man-made hazards to life
4 or property. Regulations may include variable lot sizes, special grading or
5 drainage requirements, or other requirements deemed necessary for the public
6 health, safety or general welfare.

7 10. Establish districts of historical significance provided that:

8 (a) The ordinances may require that special permission be obtained for
9 any development within the district if the legislative body has adopted a
10 plan for the preservation of districts of historical significance which meets
11 the requirements of subdivision (b) of this paragraph, and the criteria
12 contained in the ordinance are consistent with the objectives set forth in
13 the plan.

14 (b) A plan for the preservation of districts of historical
15 significance shall identify districts of special historical significance,
16 state the objectives to be sought concerning the development or preservation
17 of sites, area and structures within the district, and formulate a program
18 for public action including the provision of public facilities and the
19 regulation of private development and demolition necessary to realize these
20 objectives.

21 (c) The ordinance establishing districts of historical significance
22 shall set forth standards necessary to preserve the historical character of
23 the area so designated.

24 (d) The ordinances may designate or authorize any committee,
25 commission, department or person to designate structures or sites of special
26 historical significance in accordance with criteria contained in the
27 ordinance, and no designation shall be made except after a public hearing
28 upon notice of the owners of record of the property so designated. The
29 ordinances may require that special permission be obtained for any
30 development respecting the structures or sites.

31 11. Establish age specific community zoning districts in which
32 residency is restricted to a head of a household or spouse who must be of a
33 specific age or older and in which minors are prohibited from living in the
34 home. Age specific community zoning districts shall not be ~~overlaid~~
35 OVERLAI over property without the permission of all owners of property
36 included as part of the district unless all of the property in the district
37 has been developed, advertised and sold or rented under specific age
38 restrictions. The establishment of age specific community zoning districts
39 is subject to all of the public notice requirements and other procedures
40 prescribed by this article.

41 12. Establish procedures, methods and standards for the transfer of
42 development rights within its jurisdiction. Any proposed transfer of
43 development rights from the sending property or to the receiving property
44 shall be subject to the notice and hearing requirements of section 9-462.04
45 and shall be subject to the approval and consent of the property owners of

1 both the sending and receiving property. Prior to any transfer of
2 development rights, a municipality shall adopt an ordinance providing for:

3 (a) The issuance and recordation of the instruments necessary to sever
4 development rights from the sending property and to affix development rights
5 to the receiving property. These instruments shall be executed by the
6 affected property owners and lienholders.

7 (b) The preservation of the character of the sending property and
8 assurance that the prohibitions against the use and development of the
9 sending property shall bind the landowner and every successor in interest to
10 the landowner.

11 (c) The severance of transferable development rights from the sending
12 property and the delayed transfer of development rights to a receiving
13 property.

14 (d) The purchase, sale, exchange or other conveyance of transferable
15 development rights prior to the rights being affixed to a receiving property.

16 (e) A system for monitoring the severance, ownership, assignment and
17 transfer of transferable development rights.

18 (f) The right of a municipality to purchase development rights and to
19 hold them for resale.

20 B. For the purposes prescribed in subsection A of this section, the
21 legislative body may divide a municipality, or portion of a municipality,
22 into zones of the number, shape and area it deems best suited to carry out
23 the purpose of this article and articles 6, 6.2 and 6.3 of this chapter.

24 C. All zoning regulations shall be uniform for each class or kind of
25 building or use of land throughout each zone, but the regulations in one type
26 of zone may differ from those in other types of zones as follows:

27 1. Within individual zones, there may be uses permitted on a
28 conditional basis under which additional requirements must be met, including
29 requiring site plan review and approval by the planning agency. The
30 conditional uses are generally characterized by any of the following:

31 (a) Infrequency of use.

32 (b) High degree of traffic generation.

33 (c) Requirement of large land area.

34 2. Within residential zones, the regulations may permit modifications
35 to minimum yard lot area and height requirements.

36 D. To carry out the purposes of this article and articles 6 and 6.2 of
37 this chapter, the legislative body may adopt overlay zoning districts and
38 regulations applicable to particular buildings, structures and land within
39 individual zones. For the purposes of this subsection, "overlay zoning
40 district" means a special zoning district that includes regulations which
41 modify regulations in another zoning district with which the overlay zoning
42 district is combined. Overlay zoning districts and regulations shall be
43 adopted pursuant to section 9-462.04.

44 E. The legislative body may approve a change of zone conditioned upon
45 a schedule for development of the specific use or uses for which rezoning is

1 requested. If at the expiration of this period the property has not been
2 improved for the use for which it was conditionally approved, the legislative
3 body, after notification by certified mail to the owner and applicant who
4 requested the rezoning, shall schedule a public hearing to take
5 administrative action to extend, remove or determine compliance with the
6 schedule for development or take legislative action to cause the property to
7 revert to its former zoning classification.

8 F. All zoning and rezoning ordinances or regulations adopted under
9 this article shall be consistent with and conform to the adopted general plan
10 of the municipality, if any, as adopted under article 6 of this chapter. In
11 the case of uncertainty in construing or applying the conformity of any part
12 of a proposed rezoning ordinance to the adopted general plan of the
13 municipality, the ordinance shall be construed in a manner that will further
14 the implementation of, and not be contrary to, the goals, policies and
15 applicable elements of the general plan. A rezoning ordinance conforms with
16 the land use element of the general plan if it proposes land uses, densities
17 or intensities within the range of identified uses, densities and intensities
18 of the land use element of the general plan.

19 G. No regulation or ordinance under this section may prevent or
20 restrict agricultural composting on farmland that is five or more contiguous
21 acres and that meets the requirements of this subsection. An agricultural
22 composting operation shall notify in writing the legislative body of the city
23 or town and the nearest fire department of the location of the composting
24 operation. If the nearest fire department is located in a different city or
25 town from the agricultural composting operation, the agricultural composting
26 operation shall also notify in writing the fire department of the city or
27 town in which the operation is located. Agricultural composting is subject
28 to ~~the provisions of~~ sections 3-112 and 49-141. Agricultural composting may
29 not be conducted within one thousand three hundred twenty feet of an existing
30 residential use, unless the operations are conducted on farmland or land
31 leased in association with farmland. Any disposal of manure shall comply
32 with section 49-247. For THE purposes of this subsection:

33 1. "Agricultural composting" means the controlled biological
34 decomposition of organic solid waste under in-vessel anaerobic or aerobic
35 conditions where all or part of the materials are generated on the farmland
36 or will be used on the farmland associated with the agricultural composting
37 operation.

38 2. "Farmland" has the same meaning prescribed in section 3-111 and is
39 subject to regulation under section 49-247.

40 H. BEFORE APPROVAL OF A DEVELOPMENT IMPACT FEE, LAND USE REGULATION OR
41 ORDINANCE OR AMENDMENT OF THE RESIDENTIAL BUILDING CODE, A CITY OR TOWN SHALL
42 PREPARE A HOUSING AFFORDABILITY FISCAL IMPACT STATEMENT PURSUANT TO SECTION
43 9-461.14.

1 ~~H.~~ I. For THE purposes of this section:

2 1. "Development rights" means the maximum development that would be
3 allowed on the sending property under any general or specific plan and local
4 zoning ordinance of a municipality in effect on the date the municipality
5 adopts an ordinance pursuant to subsection A, paragraph 12 of this section
6 respecting the permissible use, area, bulk or height of improvements made to
7 the lot or parcel. Development rights may be calculated and allocated in
8 accordance with factors including dwelling units, area, floor area, floor
9 area ratio, height limitations, traffic generation or any other criteria that
10 will quantify a value for the development rights in a manner that will carry
11 out the objectives of this section.

12 2. "Receiving property" means a lot or parcel within which development
13 rights are increased pursuant to a transfer of development rights. Receiving
14 property shall be appropriate and suitable for development and shall be
15 sufficient to accommodate the transferable development rights of the sending
16 property without substantial adverse environmental, economic or social impact
17 to the receiving property or to neighboring property.

18 3. "Sending property" means a lot or parcel with special
19 characteristics, including farmland, woodland, desert land, mountain land,
20 floodplain, natural habitats, recreation or parkland, including golf course
21 area, or land that has unique aesthetic, architectural or historic value that
22 a municipality desires to protect from future development.

23 4. "Transfer of development rights" means the process by which
24 development rights from a sending property are affixed to one or more
25 receiving properties.